



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BJG
Docket No: 6099-99
28 October 1999

CAPT [REDACTED] USMCR
[REDACTED]

Dear Capt [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 28 October 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 27 September 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure

6099-99



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
1610

MMER/PERB

SEP 27 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
CAPTAIN [REDACTED] JSMCR

Ref: (a) Captain [REDACTED] DD Form 149 of 1 Jun 99
(b) MCO P1610.7D w/Ch 1-4

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 22 September 1999 to consider Captain [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 980110 to 980608 (CH) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner believes that the report, although not "bad", does not offer a fair assessment of his performance. In addition, he believes the continuing presence of the report in his record will be an obstacle in his search for a position with the Guard/Reserve. The gist of the petitioner's argument is that he never worked for or reported to Major [REDACTED] in any capacity. Thus, he disclaims Major [REDACTED] as the Reporting Senior.

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. When the petitioner signed Item 22 of the report, he certified that the information contained in Section A was accurate. That includes, but is definitely not limited to, identification of both the Reporting Senior and Reviewing Officer of record. Had there been any confusion or question as to Major [REDACTED] responsibility in that capacity, the issues should have been resolved/addressed at that time. In addition, the Board observes that Lieutenant Colonel [REDACTED] agreement with the overall evaluation, as well as his addition of glowing comments, alleviates any doubt that Major [REDACTED] was the proper Reporting Senior.

b. Although Lieutenant Colonel [REDACTED] claims that the report was "... written by an officer who was not truly Captain [REDACTED] reporting senior", the Board is haste to point out that neither he nor the petitioner has identified precisely who that

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CAPTAIN [REDACTED] JR., [REDACTED] USMCR

individual should have been. Likewise, we find nothing from either Major [REDACTED] or Lieutenant Colonel [REDACTED] disclaiming Major [REDACTED] as the correct reporting senior of record. To this end, the Board concludes that the petitioner has failed to establish the existence of either an error or an injustice.

c. For both the petitioner and Lieutenant Colonel [REDACTED] to imply that a future employer, or the Guard/Reserve, is going to glean derogatory implications from the report is simply unfounded. That fact notwithstanding, nothing has been provided to prove that the overall evaluation was not written truthfully, objectively, and accurately.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Captain [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]
Colonel, U.S. Marine Corps
Deputy Director
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps